

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED - FCC

DEC 15 2003

Federal Communication Commission
Bureau / Office

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments,)
FM Broadcast Stations.)
(LaGrange, Greenville and)
Waverly Hall, Georgia))

MB Docket No. 03-223
RM-10813

To: Assistant Chief, Audio Division
Media Bureau

JOINT COMMENTS
OF COX RADIO, INC.; CXR HOLDINGS, INC.;
AND DAVIS BROADCASTING INC., OF COLUMBUS

Cox Radio, Inc and its wholly owned subsidiary, CXR Holdings, Inc., licensee of radio station WALR-FM, LaGrange, Georgia (collectively "Cox"), and Davis Broadcasting, Inc., of Columbus, licensee of WKZJ(FM), Greenville, Georgia ("Davis Broadcasting"; collectively "Petitioners"), by their attorneys and pursuant to Sections 1.415, 1.419 and 1.420 of the Commission's Rules (47 C.F.R. §§ 1.415, 1.419, 1.420), hereby submit these comments regarding the above-captioned *Notice of Proposed Rule Making* ("Notice") released by the Commission on October 24, 2003.¹ The *Notice* seeks comment on Petitioners' joint request, as set forth in their *Petition for Rule Making* dated May 9, 2003 ("*Petition*"), that the Commission

¹ Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (LaGrange, Greenville and Waverly Hall, Georgia), *Notice of Proposed Rule Making*, DA 03-3227, MB Docket No 03-223, RM-10813 (rel. Oct. 24, 2003) (the "*Notice*").

No. of copies rec'd _____
Date of file _____

amend Section 73.202(b), the FM Table of Allotments, by (a) deleting Channel 239C3 at Greenville, Georgia and allotting Channel 239A to Waverly Hall, Georgia for use by WKZJ(FM) as Waverly Hall's first local service and (b) reallocating Channel 281C1 from LaGrange, Georgia to Greenville, Georgia for use by WALR-FM.

The Petitioners hereby confirm their commitment to the proposal, as set forth in the *Petition*, which is incorporated herein by reference. Both parties confirm their intention to timely file applications to operate their stations in their new communities and to implement the necessary changes in accordance with the FCC's rules, upon grant of the proposal by the Commission.

In the *Notice*, the Commission asks Petitioners to provide the overall public interest benefits that would be derived from the reallocations. Petitioners assert that grant of the proposal is in the public interest and will provide important public interest benefits. Principally, grant of the proposal will result in a preferential arrangement of allotments consistent with *Community of License* and the *Revision of FM Assignment Policies and Procedures* by providing first local transmission service to the community of Waverly Hall, Georgia.² As set forth in the *Petition* and noted in the *Notice*, Waverly Hall merits first local service preference under priority (3) of the *FM Priorities*. If the proposed reallocations are granted, Waverly Hall would gain its first local service and, as explained below, Greenville would maintain local service, in contrast to the

² See Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, *Report and Order*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990) (collectively "*Community of License*"); Revision of FM Assignment Policies and Procedures, *Second Report and Order*, 90 FCC 2d 88 (1982) ("*Revision of FM Assignment Policies*"). These priorities are (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters

existing state of allotments in which Waverly Hall would not have any local service and Greenville would maintain its local service. Thus, the proposed reallocations would achieve a preferential arrangement of allotments by providing a first local service to a community.³

As noted, the proposed reallocation of Channel 281C1 from LaGrange to Greenville, Georgia will maintain local service to Greenville while LaGrange will continue to be served by three stations, WLAG(AM), WTRP(AM) and WOAK(FM). The Commission has routinely found such proposals to be in the public interest in which a replacement service has been proposed for a community such that, as a result of the proposed reallocations, a net gain of local service to a community would result from grant of the proposal, as compared to the existing state of allotments.⁴ Thus, grant of the Petitioners' proposal would serve the public interest by providing Waverly Hall with its first local service, maintaining local service to Greenville and LaGrange, and also creating in a net gain in service population.⁵

³ See, e.g., *Detroit Lakes and Barnesville, Minnesota, and Enderlin, North Dakota*, 16 FCC Rcd 22581 (2001), *Arcadia, Gibsland, and Hodge, Louisiana and Wake Village, Texas*, 15 FCC Rcd 13293 (2000).

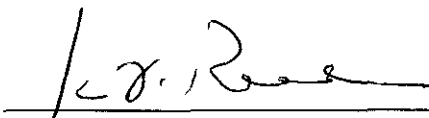
⁴ See, e.g., *Old Fort, Fletcher, and Asheville, NC*, 18 FCC Rcd 12181 (2003); *Dayton, Incline Village and Reno, NV*, 15 FCC Rcd 22461 (2000); *Llano and Marble Falls, TX*, 12 FCC Rcd 6809 (1997).

⁵ See *Petitioners' Joint Petition for Rule Making, Technical Exhibit* at Figure 1 (May 9, 2003).

THEREFORE, for the reasons herein and previously set forth in the *Petition*, the
Petitioners respectfully request that the Commission promptly adopt the changes proposed in the
Notice

Respectfully Submitted,

COX RADIO, INC.
CXR HOLDINGS, INC.
DAVIS BROADCASTING, INC., OF
COLUMBUS

By: 
Kevin F. Reed
Christina H. Burrow
Nam E. Kim

Their Attorneys

DOW, LOHNES & ALBERTSON, PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036-6802
202-776-2000

December 15, 2003